Filed 8/31/15 J.A. v. Superior Court CA4/2

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

J.A., Petitioner, v. THE SUPERIOR COURT OF RIVERSIDE COUNTY, Respondent; RIVERSIDE COUNTY DEPARTMENT OF PUBLIC SOCIAL SERVICES, Real Party in Interest.	E063674 (Super.Ct.No. SWJ1200744) OPINION

ORIGINAL PROCEEDINGS; petition for extraordinary writ. Timothy F. Freer, Judge. Petition is denied.

Brent L. Valdez, for Petitioner J.A.

No appearance for Respondent.

Gregory P. Priamos, County Counsel, James E. Brown, Guy B. Pittman, and Julie Koons Jarvi, Deputy County Counsel, for Real Party in Interest.

At the age of two months, L.A. was removed from the custody of her parents, J.A. (Father) and P.M. (Mother). After a jurisdictional hearing, the juvenile court found true the allegations under Welfare and Institutions Code[1] section 300, subdivisions (b) (failure to protect) and (j) (abuse of sibling), and declared the child a dependent of the court. The court thereafter denied the parents reunification services under the bypass provisions of section 361.5, subdivisions (b)(10) and (b)(11).

The parents each filed a petition for an extraordinary writ pursuant to section 366.26, subdivision (l), and California Rules of Court, rules 8.452 and 8.456, seeking review of the juvenile court's jurisdictional and dispositional findings.[2] In this writ of mandate proceeding, Father contends the record does not support the failure to protect findings against him as well as the abuse of sibling finding. He further argues that there was insufficient evidence to support the denial of reunification services. We reject these contentions and deny Father's petition.

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[1] All future statutory references are to the Welfare and Institutions Code unless otherwise stated.

[2] Mother withdrew her petition on July 6, 2015, and this court dismissed her petition on July 10, 2015.

I

FACTUAL AND PROCEDURAL BACKGROUND

In addition to L.A., Father and Mother are also the parents of S.A. S.A. was detained from the parents on October 31, 2012, due to the parents' abuse of drugs and alcohol, neglect of the child, and Mother's mental health issues. S.A. was declared a dependent of the court on December 3, 2012, and the parents were offered reunification services. On June 3, 2013, S.A. was returned to the parents' care upon the condition the parents reside with the maternal grandmother. The court authorized the parents to relocate from the maternal grandmother's home when deemed appropriate. On November 13, 2013, the court terminated the parents' reunification services as to S.A., and S.A.'s adoption was finalized on December 12, 2014.

On February 10, 2015, the Department of Public Social Services (DPSS) received an emergency response referral with allegations of general neglect following L.A.'s birth. The reporting party was concerned that Mother was not bonding appropriately with her baby; that Mother had stated she had high anxiety and had recently went to a mental health facility but they had refused to see her; and that Mother had five other children, four of whom resided with their respective fathers in Contra Costa County. Mother had also claimed that she had custody of S.A., but that the paternal grandmother was watching S.A. The reporting party had made contact with the paternal grandmother, who stated that S.A. had been adopted at two months old.

When the social worker interviewed Mother, Mother admitted that she did not have custody of her other children.[3] She also admitted to having a history of abusing marijuana and methamphetamine, but claimed that she had been clean for three years. A saliva drug test of Mother revealed a positive result for opiates. She denied having depression, anxiety, or mental health issues at that time, but admitted seeing a doctor and being prescribed Paxil and Xanax.

The social worker met Father briefly when the worker visited the family home, and asked Father to drug test. On February 17, 2015, the social worker received confirmation that Father had failed to show for his drug test. The social worker made several attempts to contact Father but the worker was unsuccessful. The social worker eventually made contact with Father outside his home on March 12, 2015. Father refused to speak with the social worker. Due to Mother's past extensive history of domestic violence and drug use, Father's failure to drug test, and the parents' evasive behavior and uncooperativeness, the social worker recommended that court intervention was required.

On March 16, 2015, a petition was filed on behalf of L.A. pursuant to section 300, subdivisions (b) (failure to protect) and (j) (abuse of sibling). DPSS recommended that the child remain in the care of her parents pending a further investigation.

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[3] Mother had an extensive child protective services history involving general neglect allegations that were substantiated in Contra Costa County, and as a result her other children were removed from her care in November 2005. Mother had an open juvenile dependency case from November 17, 2005 to January 10, 2007.

On March 17, 2015, the juvenile court made temporary findings and continued the detention hearing as neither parent was present in court. The child was not detained at that time.

The continued detention hearing was held on March 18, 2015. Both parents were present. The court found a prima facie showing was made that the child came within section 300, subdivisions (b) and (j). The court detained the child and placed her in a suitable relative or foster home. The court ordered a hair follicle test for both parents, and authorized DPSS to return the child to Father's care upon a clean hair follicle test and suitable home evaluation.

On April 22, 2015, DPSS filed an amended petition pursuant to section 300, subdivisions (b) and (j). The amended petition alleged that: Mother had unresolved mental health issues and was currently limited in her ability to provide the child with a safe and stable home in that she was not receiving mental health treatment and/or services for her diagnosis of anxiety and depression (b-1); Mother had an extensive child protective services history involving allegations of general neglect, substance abuse, domestic violence, and unresolved mental health issues and that Mother did not have custody of her older children and her parental rights as to S.A. had been terminated (b-2); Mother had a criminal case related to an arrest and/or conviction for perjury and fraud to obtain aid (b-3); Father had an active criminal case and arrest warrants related to his arrests and/or convictions for petty theft and shoplifting, and a prior conviction for burglary (b-4); Father had a child protective services history involving substantiated

allegations of general neglect and substance abuse resulting in the termination of his reunification services and parental rights as to S.A. (b-4); and the child's sibling, S.A., had been abused and/or neglected as defined in section 300, subdivision (b), and there was a substantial risk that L.A. will suffer similar harm (j-1).

DPSS reported that out of home placement was appropriate and necessary. The parents had an extensive history of substance abuse resulting in the termination of their parental rights as to S.A. The parents also had a history of unstable housing, a failure to benefit from services, and a failure to maintain sobriety. Father had a criminal history, and had failed to address his active arrest warrants. Mother had submitted to a hair follicle test and the result was positive for methamphetamine and amphetamine. Father had also submitted to a hair follicle test and the result was negative. On March 27, March 31, April 3, and April 13 Father had submitted to an oral saliva drug test and the results were negative. On April 13, 2015, Father had provided documentation of attending four 12-step meetings. On April 15, Father had entered the MFI residential drug treatment program. On May 19, 2015, according to the program, Father had displayed a positive attitude and a high motivation to change. Father drug tested on May 9, 2015, and the result was negative. Father had subsequently provided proof of attending more 12-step meetings in April and May.

Father regularly visited L.A. He was attentive during visitation but had presented as unsure as to what he needed to do with his child. He appeared uncomfortable with placing L.A. in her car seat; and on one occasion midway through feeding L.A., Father

had handed the child to the foster parent and retreated to the bathroom. He had made efforts to meet L.A.'s needs during visits, but appeared to lack confidence in his ability to meet her needs. The foster parent reported that Father informed her that he had passed a hair follicle test and that he had " 'slipped' up" prior to L.A.'s birth. Father also informed the foster parent that he "was obtaining" his 60-day chip for sobriety.

The social worker was concerned that the parents had demonstrated a pattern of completing services but had not shown longevity in benefitting from services. Although Father participated and completed residential and outpatient treatment programs to address his substance abuse issues in the prior dependency case, Father had been evasive about drug testing and disclosed he had recently used drugs. The social worker also believed that the parents had engaged in co-dependent behavior as evidenced by Father being easily influenced by Mother to not cooperate with DPSS. The social worker was therefore concerned whether Father had the ability to protect his child if he was unable to make decisions separate from the influence of Mother.

The social worker recommended that the parents be denied reunification services pursuant to section 361.5, subdivisions (b)(10) and (b)(11). As to Father, the social worker noted Father had previously received family reunification and family maintenance services from October 2012 to November 2013, and tested positive for amphetamines in October 2012. The dependency petition in the prior case alleged that Father had an extensive history of abusing controlled substances, including but not limited to methamphetamine and marijuana. Father was required to participate in alcohol and drug

testing, substance abuse treatment, parenting education, and counseling. A subsequent section 387 petition in the prior case alleged that Father had failed to engage in random drug testing, counseling, and 12-step meetings. Father had previously completed residential and outpatient treatment programs to address his substance abuse issues during the prior dependency. The social worker believed that Father had demonstrated resistance to complying with DPSS directives and services as evidenced by his dismissal of the worker and directives for face-to-face meetings and drug testing. The social worker also noted that Father had completed only four 12-step meetings since the detention hearing, despite verbalizing his understanding that he should be attending three meetings a week. The social worker was concerned that Father had shown a pattern of completing services, yet not demonstrating longevity to benefitting from services and had been evasive in drug testing in both the present and prior dependency case.

The contested jurisdictional hearing was held on May 27, 2015. At that time, Father testified that he had last used drugs on August 3, 2013; that he did not tell the foster parent he had slipped up; and that he had a future court date to resolve one of his warrants. He stated that he had previously received substance abuse treatment during the sibling's dependency; that he had completed his drug program in May 2013; and that it had been a year since his relapse. He later testified that he had been sober for a year and two months. Father further asserted that he had voluntarily entered his current substance abuse program; that the social worker had only wanted him to enter an outpatient

program; that he did not have a sponsor; and that he had not done any program since his relapse until DPSS got involved in his life because of L.A.

Following argument, the juvenile court found the allegations in the petition true as amended and declared L.A. a dependent of the court. The parents were denied services under section 361.5, subdivisions (b)(10) and (b)(11), and a section 366.26 hearing was set. This appeal followed.

II

DISCUSSION

A. *Jurisdictional Findings*

Father argues that there was insufficient evidence to support the jurisdictional findings that the child was at substantial risk of physical harm under section 300, subdivisions (b) (neglect) and (j) (abuse of sibling).[4]

" ' "A dependency proceeding under section 300 is essentially a bifurcated proceeding." [Citation.] First, the court must determine whether the minor is within any of the descriptions set out in section 300 and therefore subject to its jurisdiction.' [Citation.] ' "The petitioner in a dependency proceeding must prove by a preponderance of the evidence that the child who is the subject of a petition comes under the juvenile court's jurisdiction." ' [Citation.] 'The basic question under section 300 is whether

[4] Father does not challenge the jurisdictional findings as to Mother, but merely against himself as to allegations b-4, b-5, and j-1.

circumstances at the time of the hearing subject the minor to the defined risk of harm.' " (*In re A.S.* (2011) 202 Cal.App.4th 237, 243-244 (*A.S.*).)

When the sufficiency of the evidence to support a finding or order is challenged on appeal, the reviewing court must determine if there is any substantial evidence, that is, evidence which is reasonable, credible, and of solid value to support the conclusion of the trier of fact. (*In re J.N.* (2010) 181 Cal.App.4th 1010, 1022.) We review the entire record to determine whether substantial evidence supports the juvenile court's findings, resolving all conflicts and drawing all reasonable inferences in support of the findings. (*Ibid.*) Those inferences "must be reasonable and logical; 'inferences that are the result of mere speculation or conjecture cannot support a finding.' " (*In re B.T.* (2011) 193 Cal.App.4th 685, 691 (*B.T.*).) "We do not reweigh the evidence, evaluate the credibility of witnesses or resolve evidentiary conflicts. The appellant has the burden to demonstrate there is no evidence of a sufficiently substantial nature to support the findings or orders." (*In re Jordan R.* (2012) 205 Cal.App.4th 111, 135-136.)

The dependency court asserts jurisdiction over the children, not the parents. If sufficient evidence supported jurisdiction based on one parent's conduct, it was proper for the court to assert jurisdiction, irrespective of the other parent's conduct. (§ 302, subd. (a); *In re James C.* (2002) 104 Cal.App.4th 470, 482.) Similarly, if substantial evidence supports findings related to any of the asserted bases for jurisdiction, we will affirm the juvenile court's jurisdictional order. (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.)

Section 300, subdivision (b), provides a basis for juvenile court jurisdiction if the child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness as a result of the parent's failure to adequately supervise or protect the child or to provide adequate medical treatment. (See *A.S.*, *supra*, 202 Cal.App.4th at p. 244.) In enacting section 300, the Legislature intended to protect children who are currently being abused or neglected, "and to ensure the safety, protection, and physical and emotional well-being of children who are at risk of that harm." (§ 300.2.) The court need not wait until a child is seriously abused or injured to assume jurisdiction and take the steps necessary to protect the child. (*In re Heather A.* (1996) 52 Cal.App.4th 183, 194-196.)

"The three elements for jurisdiction under section 300, subdivision (b) are: ' "(1) neglectful conduct by the parent in one of the specified forms; (2) causation; and (3) 'serious physical harm or illness' to the [child], or a 'substantial risk' of such harm or illness." ' [Citations.] 'The third element, however, effectively requires a showing that at the time of the jurisdictional hearing the child is at substantial risk of serious physical harm in the future (e.g., evidence showing a substantial risk that past physical harm will reoccur).' " (*B.T.*, *supra*, 193 Cal.App.4th at p. 692, italics omitted.) "[P]revious acts of neglect, standing alone, do not establish a substantial risk of harm; there must be some reason beyond mere speculation to believe they will reoccur." (*In re Ricardo L.* (2003) 109 Cal.App.4th 552, 565 (*Ricardo L.*).)

Father argues that there was insufficient evidence to support the b-4 allegation that he had an active criminal case and arrest warrants because "a parent's history of criminal convictions will not support a finding of substantial risk." He further argues that the evidence was insufficient to support the b-5 allegation that he had a history of child protective services involving general neglect and substance abuse as to the child's sibling because DPSS did not allege he was currently abusing controlled substances and the court did not make such a finding. He asserts that the "relevant question is whether there is a substantial risk of harm in the future based on the current situation."

Regardless of the other bases for jurisdiction, Father's contention fails on the merits as there is substantial evidence supporting the court's finding that L.A. was a child described by section 300, subdivision (j). That section provides: "The child's sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions."

Thus, section 300, subdivision (j), requires sufficient evidence to support findings of past abuse of a sibling, as well as substantial risk that the child before the court has been or will be abused in the future. (*Ricardo L.*, *supra*, 109 Cal.App.4th at pp. 566-567.) The first prong is met in this case by the fact that the child's sibling was made a dependent of the court as a result of the parents' general neglect and substance abuse. However, Father asserts there was insufficient evidence to support the juvenile court's finding of a substantial risk of harm to the child.

Father claims there was not a sufficient nexus between the harm inflicted on the sibling and the risk of harm posed to the child at the time of the adjudication hearing in the dependency proceeding. " 'While evidence of past conduct may be probative of current conditions, the question under section 300 is whether circumstances at the time of the hearing subject the minor to the defined risk of harm.' [Citation.]" (*Ricardo L.*, *supra*, 109 Cal.App.4th at p. 565.) Thus, as previously noted, past conduct, standing alone, does not establish a substantial risk of harm, "there must be some reason beyond mere speculation to believe they will reoccur. [Citations.]" (*Ibid*.; *In re James B.* (1986) 184 Cal.App.3d 524, 529-530 [jurisdiction is necessary if parent is unwilling or unlikely to protect children against threat of similar harm in the future].)

In sustaining the section 300, subdivision (j) allegation in the instant proceeding, the court had before it overwhelming evidence that the parents had failed to address the problems that led to the removal of the child's older sibling which put the child at risk of serious harm. Notwithstanding Mother's failure to address *her* problems that led to the removal of all of her children, Father had failed to address *his* substance abuse problems as well as his active arrest warrants related to his criminal cases. Significantly, this is not a case in which Father's substance abuse and arrest warrants were remote in time. Father had an arrest warrant issued effective March 14, 2014, and had entered a substance abuse program following the child's detention. The petition on behalf of the child's sibling S.A. in the earlier dependency case was filed in October 2012 based on allegations of general neglect and Mother and Father's substance abuse problems. The allegations were

substantiated and jurisdiction was assumed in December 2012, and reunification services were terminated in November 2013. In the earlier dependency case, the family had court involvement from October 10, 2012 through December 12, 2014, and both parents had received family reunification services from October 31, 2012 until November 13, 2013, when reunification services were terminated because they were determined to be ineffective to remedy the risk to the child's sibling. Subsequently, in December 2014, the court terminated their parental rights and ordered adoption as the appropriate permanent plan for the child's sibling.

Moreover, Father does not challenge the jurisdictional findings based on Mother's conduct, and there is more than substantial evidence to support jurisdiction of the child based on Mother's conduct alone. *In re I.A.* (2001) 201 Cal.App.4th 1484 (*I.A.*) is instructive. In that case, the jurisdictional allegations included the mother's drug abuse, domestic violence between the parents, and the parents' criminal histories. (*Id*. at p. 1488.) The father there also challenged the jurisdictional findings based on his conduct, but not the findings based on the mother's conduct. The court dismissed the appeal as moot because the father's "contentions, even if accepted, would not justify a reversal of the court's jurisdiction[]." (*Id*. at pp. 1487-1488.) "[I]t is necessary only for the court to find that one parent's conduct has created circumstances triggering section 300 for the court to assert jurisdiction over the child. [Citations.] Once the child is found to be endangered in the manner described by one of the subdivisions of section 300—e.g., a risk of serious physical harm (subds. (a) & (b)) . . . , among

others—the child comes within the court's jurisdiction, even if the child was not in the physical custody of one or both parents at the time the jurisdictional events occurred. [Citation.] For jurisdictional purposes, it is irrelevant which parent created those circumstances." (*Id.* at pp. 1491-1492.)

As DPSS established jurisdiction based on Mother's substance abuse and past conduct, the juvenile court properly found that the child came within the jurisdiction of section 300, subdivisions (b) and (j). (*I.A.*, *supra*, 201 Cal.App.4th at pp. 1491-1492.) Accordingly, because Father does not challenge the sufficiency of the evidence to support the jurisdictional allegations as to Mother, the juvenile court properly exercised jurisdiction over the child even if we assume, for the sake of argument, Father's conduct was not an independent basis for jurisdiction. (See, e.g., *In re Maria R.* (2010) 185 Cal.App.4th 48, 60, disapproved on another ground in *In re I.J.* (2013) 56 Cal.4th 766, 780-781; *In re John S.* (2001) 88 Cal.App.4th 1140, 1143.)

Consequently, the record established more than a sufficient basis for the court's findings that the parents' conduct put the child at risk of serious physical and emotional harm.

B. *Denial of Reunification Services*

Father also argues that the court erred in denying him reunification services under section 361.5, subdivisions (b)(10) and (b)(11), because substantial evidence does not support the finding that, subsequent to failing to reunify with the child's sibling, he did

not make a reasonable effort to treat the problems that led to the sibling's removal. We disagree.

As explained in *In re Allison J.* (2010) 190 Cal.App.4th 1106 (*Allison J.*): "Section 361.5, subdivision (b) 'reflects the Legislature's desire to provide services to parents only where those services will facilitate the return of children to parental custody.' [Citations.]" (*Id.* at p. 1112.) In section 361.5, subdivision (b), "the Legislature 'recognize[d] that it may be fruitless to provide reunification services under certain circumstances'. . . . When the court determines a bypass provision applies, the general rule favoring reunification is replaced with a legislative presumption that reunification services would be ' "an unwise use of governmental resources." ' [Citations.]" (*Allison J., supra,* at p. 1112.)

An appellate court reviews an order bypassing reunification services for substantial evidence. (*Curtis F. v. Superior Court* (2000) 80 Cal.App.4th 470, 474.) "In making this determination, we must decide if the evidence is reasonable, credible, and of solid value, such that a reasonable trier of fact could find the court's order was proper based on clear and convincing evidence. [Citation.]" (*Ibid.*; *Amber K. v. Superior Court* (2006) 146 Cal.App.4th 553, 560 [Fourth Dist., Div. Two].) The party challenging the ruling of the lower court has the burden to show that the evidence is insufficient to support the ruling. (*In re Geoffrey G.* (1979) 98 Cal.App.3d 412, 420.)

The issue before us turns on the second prong of section 361.5, subdivisions (b)(10) and (b)(11)—whether Father has "subsequently made a reasonable

effort to treat the problems that led to removal of the sibling . . . ." "The inclusion of the 'no-reasonable effort' clause in the statute provides a means of mitigating an otherwise harsh rule that would allow the court to deny services simply on a finding that services had been terminated as to an earlier child when the parent had in fact, in the meantime, worked toward correcting the underlying problems." (*In re Harmony B.* (2005) 125 Cal.App.4th 831, 842 [Fourth Dist., Div. Two] (*Harmony B.*).)

In applying that part of the statute, case law instructs, "the 'reasonable effort to treat' standard" contained in the statute "is not synonymous with 'cure.' " (*Renee J. v. Superior Court* (2002) 96 Cal.App.4th 1450, 1464.) Thus, for example, the "mere fact that [the mother] had not entirely abolished her drug problem would not preclude the court from determining that she had made reasonable efforts to treat it." (*Ibid*.) Rather, the statute provides a " 'parent who has worked toward correcting his or her problems an opportunity to have that fact taken into consideration in subsequent proceedings.' [Citation.]" (*K.C. v. Superior Court* (2010) 182 Cal.App.4th 1388, 1393.) The provision is meant "to ensure that lackadaisical or half-hearted efforts would not be deemed adequate . . . ." (*Cheryl P. v. Superior Court* (2006) 139 Cal.App.4th 87, 99 (*Cheryl P.*).)

Father asserts that, at the time of the dispositional hearing, he had participated in an inpatient substance abuse program and shown a positive attitude and high willingness to change his life. He further argues that he had consistently tested negative to random drug testing from April 15, 2015 to May 24, 2015; that he had consistently participated in a 12-step program; and that his April 7, 2015 hair follicle drug test was negative, showing

he had been sober for at least 90 days prior to the test. While Father is to be commended for his recent positive changes, the juvenile court could reasonably conclude Father had not made a reasonable effort to treat the problems that led to the removal of the child's sibling.

R.T. v. Superior Court (2012) 202 Cal.App.4th 908 (*R.T.*) is instructive. In that case, the child was removed from his parents' care after his father was arrested for domestic violence and the mother admitted drug and alcohol use. The parents had previously failed to reunify with the child's sibling, P.T., who was removed based on the parents' substance abuse and chronic homelessness. (*Id*. at p. 911.) The parents had made only minimal efforts to engage in reunification services in P.T.'s case. But, two months after the minor's removal, the mother moved to a safe residence, separated from the father, was following mental health recommendations, and had started attending a drug treatment program and 12-step meetings. Notwithstanding these efforts, the juvenile court ordered bypass of reunification services, citing the termination of parental rights in P.T.'s case and finding the parents had not made reasonable efforts to treat the underlying problems. (*Id*. at pp. 911-913.)

The Court of Appeal explained: "We do not read the 'reasonable effort' language in the bypass provisions to mean that any effort by a parent, even if clearly genuine, to address the problems leading to removal will constitute a reasonable effort and as such render these provisions inapplicable. It is certainly appropriate for the juvenile court to consider the duration, extent and context of the parent's efforts, as well as any other

factors relating to the quality and quantity of those efforts, when evaluating the effort for reasonableness. And while the degree of progress is not the focus of the inquiry, a parent's progress, or lack of progress, both in the short and long term, may be considered to the extent it bears on the reasonableness of the effort made. [¶] Simply stated, although success alone is not the sole measure of reasonableness, the measure of success achieved is properly considered a factor in the juvenile court's determination of whether an effort qualifies as reasonable." (*R.T.*, *supra*, 202 Cal.App.4th at pp. 914-915, italics omitted.)

In concluding that substantial evidence supported the juvenile court's finding, the *R.T.* court observed: "There is no evidence that mother made any effort to address her substance abuse issues after minor was returned to her, until minor was once again removed and bypass was recommended. By then, mother had been using drugs again for nearly a year, if not longer, and minor was once again languishing without proper care as a result. There is no evidence in the record that mother, in the month or two of services following minor's second removal, had engaged in these services in any meaningful way. [Citation.] In any event, the juvenile court properly could conclude this recent effort, even assuming the effort were substantiated, was simply too little, too late." (*R.T.*, *supra*, 202 Cal.App.4th at p. 915, italics omitted.)

In the present case, Father had previously received family reunification and family maintenance services from October 2012 to November 2013. He had tested positive for amphetamines in October 2012. The dependency petition in the prior case alleged that

Father had an extensive history of abusing controlled substances. Father was required to participate in alcohol and drug testing, substance abuse treatment, parenting education, and counseling. A subsequent section 387 petition in the prior case alleged that Father had failed to engage in random drug testing, counseling, and 12-step meetings. In addition, Father had previously completed residential and outpatient treatment programs to address his substance abuse issues during the prior dependency; and despite completing these programs, Father had been evasive about drug testing in the present and prior cases and had not shown longevity in benefitting from services. He had failed to show for a drug test on February 17, 2015, and had engaged in criminal behavior as recently as October 2014. Moreover, by April 27, 2015, Father had completed only four 12-step meetings since the detention hearing, despite his understanding that he should be attending three a week.

By the time of the dispositional hearing in this case, Father had been participating in substance abuse programs with positive reports and testing clean for about a month. In addition, his April 7, 2015 hair follicle test result showed negative for all controlled substances. However, the duration, extent, and context of Father's efforts reveal a pattern that, especially when combined with Father's actual progress, could reasonably lead to the conclusion that Father's efforts were only superficial. Although there are other inferences that can be drawn, the timing of Father's efforts does reasonably suggest that he was not motivated by a genuine desire to change. Rather, one could reasonably infer

that Father was only prompted to resume a substance abuse program after the child was removed from his care.

When the record is viewed in the light most favorable to the judgment, the court could reasonably conclude that Father's efforts to deal with his persistent substance abuse issues, and to provide for the safety and security of his child, were "lackadaisical or half-hearted" (*Cheryl P.*, *supra*, 139 Cal.App.4th at p. 99) considering the duration, extent, and context of his efforts. The court could reasonably reject Father's argument that his recent participation in a substance abuse treatment program constituted a reasonable effort to treat his long-term drug addiction and to provide proper care for his child. In view of Father's history of substance abuse and prior opportunities to treat his addiction, the record supports the conclusion that Father's recent participation in substance abuse treatment, while a positive step, is both qualitatively and quantitatively insufficient to support the finding that he made a reasonable effort to treat the problems that had led to the removal of the child's siblings from his care. (*R.T.*, *supra*, 202 Cal.App.4th at p. 914.)

The purpose of the reasonable effort prong of section 361.5, subdivision (b)(10), is not to create further delay for a child by allowing a parent, who up to that point has not reasonably addressed his or her problems, another opportunity to do so. (*Harmony B.*, *supra*, 125 Cal.App.4th at p. 843.) Viewing Father's history in its totality, we conclude that there is substantial evidence to support the juvenile court's finding that Father did not make a reasonable effort to treat the problems that led to the removal of the child's half

sibling from his care. Accordingly, the court did not err when it denied reunification services to Father under section 361.5, subdivisions (b)(10) and (b)(11).

III

DISPOSITION

The petition for extraordinary writ is denied.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

RAMIREZ
P. J.

We concur:

HOLLENHORST
J.

CODRINGTON
J.